

# COPYRIGHT COST STUDY AND FEE RECOMMENDATIONS



A Report

Prepared for the Register of Copyrights

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## **Abstract**

This report presents the results of a study and analysis of the costs that the Copyright Office incurs in registration of claims, recordation of documents, and the provision of related services and recommends a new fee schedule for those services. The core of this study and analysis is the work done by Activity Based Costing methodology for determining the Office's full costs and the appropriate fees to recover part or all of the costs. The costing model was revised this year to reflect new organizational units and processing steps associated with the general reorganization and business process engineering implemented in August 2007.

The fee model calculates the cost of providing each basic copyright fee service, including all costs to the Copyright Office basic budget and referencing intra-agency costs. For fees specific to the Licensing Division, which operates under a separate budget, the cost study analyzed processing steps and times and calculated the cost to the Office of providing licensing fee services.

The study takes into account the Federal Financial Accounting Standards. In the report, the preparer recommends a fee schedule based upon the cost determinations as well as policy and economic factors such as fairness and equity and consideration of the objections of the copyright system, projected inflation and elasticity relating to fees.

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## **Introduction**

The Copyright Office proposes herein a new schedule of fees to be implemented in 2009. Adjustments are needed from time to time to bring fees for copyright services in line with the cost of providing those services.

Most Copyright Office fees were adjusted in a schedule submitted to the Congress that became effective on July 1, 2006. In 2007, an abbreviated schedule of adjustments was reviewed by the Congress and implemented July 1, 2007.

The purpose of the 2007 fee adjustment was to implement a reduced filing fee for basic registrations filed electronically via the Office's new electronic Copyright Office (eCO). The implementation coincided with the July 2007 eService system beta test. The fee reduction was justified by the demonstrated cost savings in processing these electronic claims.

In this fee proposed schedule, the preparer introduces, at the Register's request, a third basic filing fee. The fee lies between the fee for electronic filings and paper filings. It is a fee for filing the new Form CO which includes a 2-dimensional (2D) barcode that carries the information entered on the application in digital form. Form CO is completed on the Office website and printed out with the information embedded in the 2D barcode for submission to the Office. This registration option saves processing costs because no

effort is required to convert analog data to digital, although processing costs for Form CO are still more than the costs for processing electronic claims.

The proposed fee schedule increases or decreases other fees based on increased or reduced costs resulting from new operational processes under the reengineered system. Some fees are increased based on the increase in the Consumer Price Index to maintain the previous level of cost recovery. In one case, where a similar service is offered by private firms, the fees charged by these firms were taken into account.

The report contains the analysis Congress required the Office to submit with its proposed fee schedule. It recommends new fees for services related to registration that are subject to review by Congress and fees for services that do not require Congressional review. The report discusses the methodology used by the Office in developing a cost study and its considerations of the specific statutory guidelines to ensure that fees be "fair," "equitable," and "further the objectives of the copyright system." This report provides a new fee schedule for the Register to consider.

## **I. Background on adjusting Copyright Office fees**

### **A. Legal basis for adjusting fees**

The proposed fees were determined based on the guidelines set forth in legislation enacted in 1997 (Technical Amendments Act, Pub. L. No. 105-80, 111 Stat. 1529 (1997)), that permit the Register of Copyrights to set fees by regulation rather than by statute, according to the following procedure:

1. The Register shall conduct a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the

provision of services. This study should also consider the timing of any increase in fees and the authority to use such fees consistent with the budget.

2. On the basis of the study, the Register is authorized to fix fees at a level not more than necessary to recover reasonable costs incurred for the services described plus a reasonable adjustment for inflation.
3. The fees shall be fair and equitable and give due consideration to the objectives of the copyright system.
4. The Register must then submit a proposed fee schedule with the accompanying economic analysis to Congress for its approval. The Register may institute the new fees 120-days after the schedule is submitted to Congress unless Congress enacts a law within the 120-day period stating that it does not approve the schedule).

**B. Overview of the Copyright Office budget**

Copyright Office basic funds support activities associated with administering the copyright law, including registration of claims, recordation of documents, and related services. The Office's Licensing Division is funded by royalty fees.

The Copyright Office net appropriation supports the registration system and related services, as well as policy costs and other costs not related to fee services. It also supports some operations costs not fully recovered through fees. To encourage voluntary participation in the copyright process and because a strong registration system provides benefits to the copyright community as a whole, the Office has charged fees less than the full cost of the registration program.



The Copyright Office budget is separate from that of the Library of Congress, although there are shared resources stemming from budgeted expenditures. The Library of Congress assumes certain intra-entity expenses supporting the Copyright Office in the Offices of Human Resource Services, Financial Services, Integrated Support Services, and Information and Technology Services. In return, the Copyright Office annually provides the Library of Congress with very valuable materials, including books, serials, maps, music, and motion pictures, for the Library's collections or use in its exchange programs. The value of these deposits is increasing and was estimated at more than \$45 million in Fiscal Year 2007. See Appendix A, *Estimated Value of Materials Transferred to the Library of Congress, Fiscal 2007*.

### **C. Development of a cost study**

The cost study for this proposed fee schedule is the first to reflect the operational activities associated with the new reengineered processes of the Copyright Office, which took effect in August 2007. The cost study model, originally developed under contract by PriceWaterhouseCoopers, as an early step in the reengineering effort, was adjusted to omit non-fee services and to include some fee services that were not included in their model. The cost analysis used the activity based costing methodology for determining the full cost to the Copyright Office for each service.

The Federal Accounting Standards Advisory Board (FASAB) provides guidelines for federal agencies to use in determining the full cost of program activities. Its publication, SFFAS Statement No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government, promotes activity based cost as the preferred method of cost accounting for calculating the cost of providing services. In addition, full cost reporting is required in SFFAS No. 7, Accounting for Revenue and other Financial Sources, for the annual general purpose financial statements of federal entities. OMB Circular A-25: User Charges, also provides costing guidelines and their use in establishing fees charged to users for various types of services.

Activity based cost analysis is particularly appropriate for Copyright Office basic services, where after eliminating the cost of its policy and international programs, more than 80% of the personnel costs are directly associated with one or more of the Office's fee services. The method also works well because most copyright activities are labor intensive, and staff costs can be traced by estimating staff time spent in the various services. Under this approach, resource costs are assigned to activities, and activities are assigned to specified services. Most Copyright Office activity costs were associated directly with one or more fee services. Certain general and administrative costs related to fee services were treated as indirect costs and were allocated proportionately across all fee services.

The cost study analyzes costs incurred during the second quarter of FY08, the period from January 1 to March 31, 2008. In establishing its parameters, the Office concluded, as it has since the first cost study in 1998, that some costs should not be included in the analysis. The study omitted purely policy and public information costs, i.e., costs related to legislative, regulatory, judicial, and international responsibilities, which do not relate directly to any fee service. Excluded policy expenses include certain staff from the Office of the General Counsel, the Public Information Office, the Publications Section, and all Policy and International Affairs staff. The Office also excluded the costs of the Copyright Acquisitions Division, whose primary responsibility is securing copies of copyrighted works published in the United States that have not been registered or voluntarily deposited for the use of the Library of Congress, and certain overhead expenses associated with these activities.

The cost study was followed by analysis that considered statutory fee setting requirements and economic factors. The determination to recover full or partial costs for a particular fee was based on the statutory requirement that fees be fair, equitable, and give due consideration to the objectives of the copyright system. In one case, where the private sector provides a service comparable to that provided by the Office (e.g., searching public records), the fee charged in the private sector was considered.

In a separate study based on the Licensing Division budget, non-Licensing services offered for a fee were costed, with the exception of a few services that were too little used to prepare a valid cost.

## **II.Evaluation of Cost Study Results and Other Congressional Criteria**

Based on the cost study and accompanying analysis, the preparer proposes adjustments for certain fees. The proposed fee schedule is contained in the chart in Section IV of this report.

### **A. Rationale for adjusting basic registration filing fees**

1. *The basic registration fee: new three-tier fee structure*

The Office now offers filers two additional options for filing basic copyright claims beyond the traditional paper application: electronic filing via the Office's new "electronic Copyright Office" (eCO) and filing a new application Form CO filled out and printed from the website with the data encoded in 2D barcodes.

In July 2006, the basic registration filing fee was increased to \$45. At that time, the Office established prospectively a lower fee of \$35 for filers who would use the electronic filing system, still in development at that time. In July 2007, when the system became available to the public for beta testing, the lower fee was implemented. The cost study validates the lower fee, demonstrating a substantial cost savings to the Office in processing electronic claims.

In this new schedule of fees, the preparer proposes, at the Register's recommendation, a third tier for basic registration fees. On July 1, 2008, the Office initiated new Form CO with a 2D barcode as a filing option on its website. The 2D barcode captures the data entered into the Form CO and, when scanned at the Office, the information from the 2D barcode populates the various fields with the digitized data, eliminating the need for any transcription. Users who complete the new Form CO on the Copyright Office website, print it from the website, and submit it with the fee and deposit copy or copies, will be charged a fee that is higher than the eCO filing fee, but lower than the fee for paper filings using old applications without the 2D barcode. Even though the 2D barcode application was not available at the time of the study, the fee level was determined from the cost study by stripping out the known costs that would not be incurred in processing these claims.

It is proposed that filers who submit the traditional paper application forms be charged the highest fee. The higher fee reflects the high cost of digitizing the information provided on paper, and other associated costs. In turn, these filers, like their counterparts, receive a certificate created from the digital data, rather than the old analog certificate, created from a scanned image of the application.

The reduced fee for electronic filing was instrumental in attracting participants to the beta testing program. Eventually, all who volunteered were invited to join the testing

program. After a year, it was determined that electronic filing was ready for use by the general public. On July 1, 2008, it was opened to the public. The first months have brought large increases in electronic filing, with average receipts approaching 5000 per week, approximately 43% of normal weekly receipts.

However, it is too early to tell how successful the 2D barcode application will be, but large numbers are already being filed. The lower fee for filing Form CO will undoubtedly be an incentive to even more filers who do not wish to file electronically.

As discussed above, the Copyright Office has never intended for the basic registration fees to recover the full cost of providing registration services and the proposed fee adjustments adhere to this approach. The registration system benefits the public, including those who use registration records, as well as the party making the registration and traditionally its cost has been subsidized in part by appropriated funds.

## *2. Other registration fees*

Supplementary registration: The recommendation for this statutory fee is a downward adjustment. The cost of providing the service of amending completed registrations has declined over recent years. The cost savings, resulting from online availability of more of the records that must be reviewed in processing these filings, should be passed on to the customer.

Renewal and renewal addendum: Renewal registration was required in the 28<sup>th</sup> year for works published or registered prior to 1978. The law no longer requires registration for the renewal term to vest. Further, no pre-1978 claims are still within the 28<sup>th</sup> year. Renewal registration at present serves those parties who need a certificate of registration for various commercial purposes. The fee may be adjusted based on increased costs. Accordingly, it is recommended that this fee be raised by the increase in the CPI to account for inflation since the last adjustment in 2006. The Renewal addendum is required when basic registration for the work was not made during the



original term. It documents the copyright status of the work and justifies the higher cost for the renewal registration of a previously unregistered work. This fee should be adjusted upward in an amount commensurate with the increase in the CPI as well.

Preregistration: Preregistration is permitted for works in categories that are particularly susceptible to infringement prior to publication, often by electronic means. The registration can be made while the work is still in development and allows quick action to halt infringers. It is recommended that this fee be adjusted upward in an amount commensurate with the increase in the CPI.

SE/Group - group registration for serial issues: The cost of registering a group of serial issues published within a three-month period has increased. However, the Copyright Office intends to expand the electronic registration process in the near future to include the group registration options. When this occurs, the cost for registering a group of serial issues will be much lower. For this reason and because the Office would not wish to discourage users from group registration by increasing the fee at this time, it is recommended that this fee not be adjusted.

Group Daily Newspapers/Newsletters: The cost of processing a month of newspaper issues or newsletters has increased. Though cost recovery remains strong, the fee should be increased by the increase in the CPI since the fee was adjusted in 2006. It is appropriate that cost recovery remain strong because of the very great benefit to these filers in terms of the reduced fee per issue, and often in terms of the abbreviated deposit material required when the Library of Congress does not collect the title.

Group registration for database updates, contributions to periodicals, and published photographs: These three group registration options are filed using the basic registration form, with, in the case of published photographs, occasionally, and contributions to periodicals, always, an adjunct form listing the individual titles of the items included. The fees are exactly the same as for the registration of individual works in these categories. The group option reduces paperwork as well as processing costs and it is seen as a win-win for the Office and its customers. Accordingly, the fees for these groups should increase for paper filings, in concert with the fees for individual basic registrations. When group registration is available in the 2D barcode and electronic filing options, the fees should be the same as those for individual claims.

Mask Work claims: Registration of a mask work, or semiconductor chip design, is provided under the copyright statute. The cost of these registrations has increased in an amount equivalent to the increase in the CPI and the fee should be increased by this amount as well.

Vessel Hull claims: The design for a vessel hull is also registered under the copyright statute. The cost of these registrations has increased in an amount equivalent to the increase in the CPI and the fee should be increased by this amount as well.

GATT claims: Restored claims filed on Form GATT have traditionally been charged the same fee as basic claims. GATT registration is not yet available in electronic

or 2D barcode options, therefore, the fee should continue to be the same as the fee for basic claims filed on traditional paper forms.

Fee for listing titles of individual works in an application for a collection: In 2007, the Office contemplated establishing a registration option where a claimant of a collection of individual works would list the titles of the individual works. These content titles would be included in the certificate of registration and could be indexed in the registration record as access terms. A database of registered works that includes these titles serves the interests of both copyright owners and users of copyrighted works. The Office continues to study changes to the registration process for collections but it has not implemented this service to date. The proposed fee for this service in 2007 was \$1 per title for a collection filed electronically and \$3 per title for a collection filed on paper. The Office believes that those prospective fee amounts are still appropriate. Prior to the implementation of these fees, the Office will seek public comment on the structure and organization of this registration option.

### 3. *Other statutory fees*

Statutory services the Office provides that benefit only or primarily the user of that service should recover the full cost to the Office of providing the service, unless that cost would be excessive. The Office believes there is no overriding principle that would dictate recommending a cost recovery less than the direct cost of providing these services. This principle is supported by OMB Circular A-25. The Office observes that some of these

fees are for optional services; others may be commercial in nature. Other significant adjustments to statutory fees are recommended as follows:

Receipt for a deposit under section 407: This fee should be adjusted based on increased costs to the Copyright Office. It should be increased to a level that will achieve full cost recovery.

Recordation of a transfer of copyright ownership or other document: This fee should be adjusted based on increased costs. It is recommended that it be raised by the increase in the CPI since the fee was last adjusted in 2006.

Notice of intention to obtain a compulsory license under Section 115(b): This fee has not been adjusted since 1978 and has become both a windfall for filers who have only one title in their notice and a burden for those with many titles. The Office intends to balance the fee so that it is more fair to users and better reflects the relative cost of processing the single-title versus multiple-title filings. The proposed fee is based on the cost of providing this service and increases the basic filing fee, while reducing the cost per title when multiple titles are included in the filing.

Additional certificate of registration: The recommendation for this statutory service fee is a downward adjustment. The cost of providing an additional certificate of registration has decreased as more and more of the applications are available in image form and do not have to be retrieved from paper copy storage in order to be reproduced. This cost savings should be passed on to the customer.

Other certification: The fee for certification of a record should be adjusted based on increased costs. It is recommended that the fee be raised by the increase in the CPI since the fee was last adjusted in 2006.

Making and reporting of a search: The fee for searching and preparing a report from Copyright Office records is recommended for adjustment based on inflation, and should be increased by the increase in the CPI since the fee was last adjusted in 2006. The proposed fee is intended to maintain the current level of cost recovery because a fee that would recover full cost would be prohibitive to many customers. It is recommended that, based on the study of actual production time, the Office apply a 2-hour minimum charge to all these searches based on the observation that, considering all the activities involved in processing orders, ensuring an accurate and complete search and report are prepared, and communicating and archiving the report, any search for which a written report is issued takes more than one hour to complete. This step will bring the Office's charges more in line with the fees charged for this service by providers in the private sector and will bring cost recovery closer to 100%.

#### 4. *Non-statutory fees*

The Copyright Office provides a number of services that are not mandated under the statute. These include fees for expediting service, for example, where registration or other services are required for litigation, customs, or business-related deadlines. They also include fees for other services related to registration, copying charges, and service charges for managing deposit accounts.



A number of these fees should be adjusted upward to achieve full cost recovery where costs have increased. It is recommended that others be adjusted to maintain an equivalent percentage cost recovery, based on the change in the increase in the CPI since the fees were last adjusted. In a few cases, the fees are recommended for adjustment to reflect variations in usership and in a few cases it is recommended that the fees not be adjusted.

Special Handling: The Office provides expedited handling of both claims and document recordations. The fees for these services reflect the cost of handling plus a premium payment that reflects the value of the service, which is only available under certain strictly enforced circumstances. It is recommended that the special handling fee for claims and documents be adjusted by the increase in the CPI to keep pace with inflation. If one or more non-special handling claims shares a deposit with a special handling claim, there is a handling charge for each additional claim. It is recommended that this fee remain unchanged.

Full term Retention of Published Deposit: A registered deposit of a published work will be retained with the Office for the full term of copyright protection upon payment of a fee. The cost of processing these requests and of storing the deposits has increased and this fee should be adjusted based on the change in the CPI since the last increase.

First and Second Appeals: The appeal process assures that filers whose claims are refused registration can request a review of the decision through an administrative procedure. The first appeal is determined within the Registration and Recordation Program office. The second appeal is considered by a board consisting of the Register, the General Counsel, and the Associate Register for the Registration and Recordation Program or their delegates. The fees, if increased, would be too high for some filers who have a legitimate case to make for registration. At the current levels, casual requests are discouraged without severely impeding access to the review process. It is recommended that the appeals fees and, in addition, the fee for additional related works included in the appeal remain unchanged.

Secure Test Processing: The Office provides a private review of the full deposit of a secure test and comparison with identifying material that does not disclose secret materials, i.e., questions included in the test. The charge for this special processing is recommended to increase based on increased processing costs to the Office.

Online Service Provider Designation: The Copyright Office has recorded and indexed designations of Online Service Providers at a flat rate up to the present time. In practice, some of these documents are very simple while others include several or even numerous domain names that must be indexed on the Office's website. To pass along the extra cost associated with the larger number of domain names to the customers who

file these designations, the preparer proposes a flat rate for the filing, with an additional fee for each group of 1 to 10 additional domain names.

Notice to Libraries and Archives: This service is seldom used and could not be reliably costed. For this reason, it is recommended that the fee remain unchanged. The cost of additional titles similarly should not be adjusted.

Handling Fee for Extra Deposit for Certification: Upon request, the Office will accept an additional deposit for the purpose of certification. The cost of the service not be determined because of a lack of reliable data. The fee has been equivalent to the cost of filing the basic claim in the past. The three-tier fee for registration may complicate this structure in future years. For the present, it is recommended that this fee not be adjusted.

Service Charge for Uncollectible and Non-negotiable Checks: Before the reengineering of Copyright Office processes, the Office summarily canceled in-process and completed registrations when an uncollectible check was returned from the bank. Under the new system, processing is merely suspended until the filer sends a valid payment. Returning non-negotiable checks and writing for replacements for failed payments is a direct cost to the Office. Most modern businesses recover such costs by imposing a service charge such as the one we propose. The higher level of service offered justifies charging for servicing these unacceptable payments. It is recommended that the Office implement this service charge.

Federal Express Mailing Charge: The cost of providing this service is increasing though data capturing methods did not permit a determination of the cost. It is recommended that the fee increase by the change in rate of the CPI.

Copying fees: The data available provided the opportunity to capture the cost of a single copying request. Specific data to determine the cost of a particular type of copy was not available. Upon consultation with those who provide copying services, recommendations are included for each type of copy.

Delivery of Documents via Facsimile: The Office will fax copies of relatively small records upon request. The data required to ascertain the cost of the service was not readily available. It is recommended that the fee for this service not be adjusted.

5. *Non-royalty Licensing fees*

The Licensing Division of the Copyright Office provides services related to statements of account for cable, satellite, and DART usage. In addition, it charges fees for services that parallel services provided for users of copyright records. In the former case, fees are set based on a separate cost study relating to the budget and expenditures of the Licensing Division. In the latter case, costs are equivalent to those provided in the Information & Records Division and are priced accordingly.

Amended Statement of Account filing (Sections 111, 112, 114, 119, 1003): No charge is currently made for an original statement of account filing, however, when the Office must request an amended statement or when the filer determines this is a necessary step, the Office charges a fee based on the cost of processing the filing. The cost of providing this service is increasing at a rate close to the rate of inflation. It is recommended that this fee be increased based on the increase in the CPI since the 2006 fee adjustment.

Recordation of Licensing Agreement (Section 118): This fee relates to the recordation of a voluntary licensing agreement and should recover the full cost of

providing the service. The fee should be increased, reflecting the increase in processing costs since the 2006 fee adjustment.

Search, certification, and copying fees: These services are equivalent to those provided for other Copyright Office records and are even co-located in some cases. It is recommended that the fees be adjusted in coordination with the equivalent Copyright basic service. In the case of search reports, however, a number of Licensing Division searches are purely factual, as in due diligence situations to verify that mandatory filings were made, thus may often be quickly handled. For this reason, it is recommended that the fee be charged in hourly increments, but with a one hour minimum fee.

Recordation of Certain Contracts by Cable TV Systems Located Outside the 48

Contiguous States: This infrequently used recordation option should not be adjusted. No filings of this type were received in the current fiscal year, so the current cost could not be assessed.

6. *Administrative changes*

The Copyright Office intends to harmonize its refund policy with respect to refunds of fees for non-registration services, including document recordation and Licensing non-royalty fees. Heretofore, when a document once filed was not recorded, the entire fee was refunded. In the future, the Office should retain a portion of the fee to offset the administrative cost of processing the request to record the document. In this case, under 37 C.F.R. 201.6 (c), it is proposed that the Office retain an administrative processing fee in an amount equivalent to the minimum fee set for this service, and will refund only the



fees paid beyond that amount. With respect to the various Licensing fees, the regulation should be applied in the same manner.

**B. Fairness, equity, and due consideration to the objectives of the copyright system**

The Copyright Office now offers three options for filing basic claims to copyright. The costs associated with the three options are scaled upward: electronic filings through eCO are the least costly, the Form CO (2D barcode) is more costly, and the old paper forms are the most costly. The disparate costs should be reflected in the fees for the three options, to ensure cost recovery and to avoid placing a burdensome fee on filers who choose the options that most benefit the Office in terms of processing cost. The preparer recommends a \$35 fee for eCO claims, a \$50 fee for Form CO claims, and a \$65 fee for claims filed using the old paper forms.

The low fee for electronic filing reflects the demonstrated cost savings associated with the reduced number of steps needed to process the application. The Office believes that the lower fee for online registration already serves as a strong incentive to claimants to use the eCO electronic filing system. It is hoped that a greater difference in fees will encourage even more users to switch to the electronic filing options.

The 2D barcode application has been set to reflect the savings associated with the 2D barcode and the cost for processing the mailed-in application. This option was created for those for whom online payment is not an option or who prefer to avoid it, but who can access the Copyright Office website to fill out and print the barcoded application. It is more costly than an electronic filing because the Office must process the fee manually and it must scan the paper application into the system. Still, not having to ‘tag’ or otherwise transcribe the factual information in the form, with all the staff time involved and errors inherent in this process, represents a considerable savings in cost. It is recommended that the Office price this filing option halfway between the cost of electronic versus regular paper filing, based on anticipated costs and cost avoidance. Availability of the 2D barcode application Form CO on the Copyright Office website has attracted many customers even without the cost advantage. The Office would be justified in providing a fee reduction to reflect costs and attract additional customers to switch.

The paper application is the most costly filing option for the Copyright Office. The application must be scanned and the fee payment processed by hand. In addition, the data in the application must be converted to digital form in each case in order to create a searchable registration record and issue a digital certificate. For typed applications, optical character recognition software allows staff to capture or “tag” the information in a field and transfer it to the corresponding field in the system. The software is not 100%

accurate, so data needs to be checked at each step and errors corrected. Handwritten applications are even more cumbersome to process because the information must be typed into the system from the handwritten form. Moreover, the nature of the data is such that careful proofreading and correction is needed to ensure an accurate registration. Setting a high fee for paper filings will recuperate more of the excess cost inherent in their processing and also serve as a deterrent for filers who could register through eCO.

A three-tier fee will be a benefit to some filers and an added expense to others. Those who can file electronically or use the 2D barcode form option will realize substantial savings on a registration filing whereas those who do not have a computer and Internet access will pay the higher fees. However, many libraries and civic centers offer free access to computers and Internet service to their patrons. If the savings in fees is important to the filer, using this free access is an option available to virtually all potential filers. The higher fee for paper filing meets the standard of fairness and equity.

A lower fee, by making filing cheaper for electronic filers, also furthers the objectives of the copyright system. Formerly, filers had to come to or mail to the Capitol Hill office all their filing materials. Payment options, particularly for infrequent filers, were limited to paper payments to prevent filers sending credit card information through the mail. In electronic filing, payment options include credit cards and electronic checks, securely available online via a link to the Department of the Treasury. Electronic filing has brought Copyright Office services to filers at home and in their offices, essentially decentralizing registration. In many cases, electronic filers can also upload their deposit copy and attach it to the application and send it along electronically with the fee payment as a package. This itself can be a significant cost savings in packaging and postage for those who otherwise would have had to mail a large manuscript, a CD, or other deposit.

Their effective date is earlier as well, because everything is received immediately in the Copyright Office.

The other fee recommended adjustments are also fair and equitable. Lowering fees for two frequently-used services (additional certificates and supplementary registrations) where costs have decreased will be a great benefit to the public. The other recommended adjustments based on increased costs or the increase in the CPI are fair and equitable, and reflect the need for service fees to support the cost of providing them.

In the case of the new service charge for uncollectible and non-negotiable payments, the proposed fee parallels the standard practices of businesses in the private sector. Further, the fact that the filer is allowed to make up the payment at all is a benefit not available under the old system. Filers previously had to send new applications and deposits in addition to the new fee payment all at their own expense, and this extra step caused an even greater delay in establishing the effective registration date. If implemented, the new service charge, with the filing fee added, may be made by credit card via telephone or email.

### **III. Conclusion**

The preparer believes that the proposed schedule of fees meets the statutory goals of fairness, equity, and due consideration to the objectives of the copyright system, and respectfully requests that the Register consider the fees proposed in this report.

**IV. Fee schedule with proposed fee changes**

<b>Schedule of Proposed Fees</b>					
		<b>Current Fee</b>	<b>Unit Cost *</b>	<b>Projected Unit Cost FY09-11</b>	<b>Proposed Fee</b>
<b>Registration, Recordation and Related Services</b>					
(1)	Registration of a basic claim in an original work of authorship:				
	Form CO (electronic filing)	\$35	\$21.69	\$25.94	\$35
	Form CO (2D barcode application completed online)	\$45	\$41.99	\$46.53	\$50
	Forms PA, SR, TX, VA, SE (paper filing)	\$45	\$53.11	\$58.52	\$65
(2)	Registration of a claim in a group of contributions to periodicals (Form GR/CP), published photographs, or database updates (paper filing)	\$45	\$53.11	\$58.52	\$65
(3)	Registration of a renewal claim (Form RE):				
	Claim without Addendum	\$75	\$95.62	\$107.76	\$115
	Addendum	\$220	\$156.58	\$177.91	\$245
(4)	Registration of a claim in a group of serials (Form SE/Group) [per issue, minimum 2 issues]	\$25	\$25.75	\$27.62	\$25
(5)	Registration of a claim in a group of daily newspapers and qualified newsletters (Form G/DN)	\$70	\$25.57	\$27.85	\$80
(6)	Registration of a claim in a restored copyright (Form GATT)	\$45	\$53.11	\$58.51	\$65



Schedule of Proposed Fees					
		Current Fee	Unit Cost *	Projected Unit Cost FY09-11	Proposed Fee
(7)	Preregistration of certain unpublished works	\$100	\$18.06	\$19.76	\$115
(8)	Registration of a correction or amplification to a claim (Form CA)	\$115	\$81.73	\$92.10	\$100
(9)	Registration of a claim in a mask work (Form MW)	\$95	\$73.18	\$81.94	\$105
(10)	Registration of a claim in a vessel hull (Form D/VH)	\$200	\$105.71	\$118.54	\$220
(11)	Providing an additional certificate of registration	\$40	\$21.69	\$23.27	\$35
(12)	Certification of other Copyright Office records (per hour)	\$150	\$140.62	\$150.84	\$165
(13)	Search report prepared from official records (per hour) [minimum: 2 hours]	\$150	\$372.61	\$399.69	\$165
	Estimate of search fee	\$100	\$166.44	\$178.54	\$115
(14)	Location and retrieval of Copyright Office materials or records (per hour)	\$150	\$121.06	\$129.86	\$165
(15)	Recordation of document, including a Notice of Intention to Enforce (NIE) (single title)	\$95	\$63.96	\$68.61	\$105
	Additional titles (per group of 10 titles)	\$25	\$24.80	\$26.60	\$30
(16)	Recordation of an Interim Designation of Agent to Receive Notification of Claimed Infringement under §512(c)(2)	\$80	\$70.82	\$75.97	\$105
	Additional domain names (per group of 10)	N/A	N/A	N/A	\$30
(17)	Issuance of a receipt for a §407 deposit	\$20	\$27.30	\$29.28	\$30
	<b>Special Services</b>				

Schedule of Proposed Fees					
		Current Fee	Unit Cost *	Projected Unit Cost FY09-11	Proposed Fee
(1)	Service charge for deposit account overdraft	\$150	\$89.52	\$96.03	\$165
(2)	Service charge for dishonored deposit account replenishment check	\$75	\$77.90	\$83.56	\$85
(3)	Service charge for an uncollectible or non-negotiable check	N/A	N/A	N/A	\$25
(4)	Appeals:				
	(i) First appeal	\$250	\$511.42	\$548.59	\$250
	Additional claim in related group	\$25	N/A	N/A	\$25
	(ii) Second appeal	\$500	\$2,324.45	\$2493.38	\$500
	Additional claim in related group	\$25	N/A	N/A	\$25
(5)	Secure test processing charge (per hour)	\$150	\$127.09	\$136.33	\$165
(6)	Copying of Copyright Office records by staff:		\$84.88**	\$91.05	
	Photocopy (b&w, 8 1/2 x 11) (per page, minimum: \$12)	\$0.50			\$0.50
	Photocopy (b&w, 11 x 17) (per page, minimum: \$12)	N/A			\$1
	Photocopy (color, 8 1/2 x 11) (per page, minimum: \$12)	\$1.50			\$2
	Photocopy (color, 11 x 17) (per page, minimum: \$12)	N/A			\$4
	Photograph (Polaroid)	\$15			\$15
	Photograph (digital)	\$45			\$45
	Slide	\$3			\$3

Schedule of Proposed Fees					
		Current Fee	Unit Cost *	Projected Unit Cost FY09-11	Proposed Fee
	Audiocassette (first 30 minutes)	\$75			\$75
	Additional 15 minute increments	\$20			\$20
	Videocassette (first 30 minutes)	\$75			\$75
	Additional 15 minute increments	\$25			\$25
	CD or DVD	\$50			\$100
	Zip or floppy disk	\$100			\$100
(7)	Special handling fee for a claim	\$685	\$192.53	\$206.52	\$760
	Handling fee for additional claim using the same deposit	\$50	N/A	N/A	\$50
(8)	Special handling fee for recordation of a document	\$435	\$206.58	\$221.59	\$480
(9)	Handling fee of extra deposit copy for certification	\$45	N/A	N/A	\$45
(10)	Full-term retention of a published deposit	\$425	\$333.45	\$357.68	\$470
(11)	Expedited search report (per hour)[costed as surcharge; recommend flat fee]	\$400	\$331.25	\$355.32	\$445
(12)	Expedited certification and copying services (surcharge, per hour)	\$240	\$137.13	\$147.10	\$265
(13)	Notice to Libraries and Archives	\$50	N/A	N/A	\$50
	Each additional title	\$20	N/A	N/A	\$20
(14)	Service charge for Federal Express mailing	\$35	N/A	N/A	\$40
	Service charge for delivery of documents via facsimile (per				

Schedule of Proposed Fees					
		Current Fee	Unit Cost *	Projected Unit Cost FY09-11	Proposed Fee
(15)	page, 7 page maximum)	\$1	N/A	N/A	\$1
	<b>Licensing Division Services</b>				
(1)	Recordation of a Notice of Intention to Make and Distribute Phonorecords (17 U.S.C. §115)	\$12	\$75.21	\$80.68	\$105
	Additional titles (per group of 10 titles)	N/A	\$26.60	\$28.53	\$20
(2)	Filing fee for recordation of a licensing agreement (17 U.S.C. §118)	\$125	\$127.79	\$137.08	\$140
(3)	Recordation of Certain Contracts by Cable TV Systems Located Outside the 48 Contiguous States	\$50	N/A	N/A	\$50
(4)	Statement of Account Amendment (Cable Television Systems and Satellite Carriers, 17 U.S.C. §111 and §119, Digital Audio Recording Devices or Media, 17 U.S.C. §1003)	\$95	\$91.93	\$98.61	\$100
(5)	Section 112/114, Notice of Digital Transmission of Sound Recording	\$20	\$20.47	\$21.96	\$25
	Amended Notice of Digital Transmission of Sound	\$20	\$20.47	\$21.96	\$25
(6)	Photocopy of Licensing record by staff (b&w) (per page)	\$0.50	N/A	N/A	\$0.50
(7)	Search report prepared from Licensing records (per hour)	\$150	N/A	N/A	\$165
(8)	Certification of search report (per hour)	\$150	N/A	N/A	\$165

\*Some little-used services could not be costed because reliable data was not available.

\*\*Copying was costed per request for the above reason.

**Estimated Value of Materials Transferred to the Library of Congress, Fiscal year 2007**

	Registered works transferred to other departments of the Library	Nonregistered works transferred to other departments of the Library	Total works transferred to other departments of the Library	Average Unit Price	Total value of works transferred to other departments of the Library
<b>Books<sup>1</sup></b>	<b>164,632</b>	<b>84,114</b>	<b>248,746</b>		<b>\$15,053,003</b>
<i>Ink Print</i>	140,100	37,066	177,166	\$80.81	\$14,316,784
<i>Electronic Works (ProQuest)</i>	22,063	46,049	68,112	\$4.31	\$293,563
<i>Microfilm</i>	2,469	999	3,468	\$127.64	\$442,656
<b>Serials<sup>2</sup></b>	<b>286,172</b>	<b>460,923</b>	<b>747,095</b>		<b>\$17,056,638</b>
<i>Periodicals</i>	256,863	422,952 <sup>3</sup>	679,815	\$40.44	\$16,495,031
<i>Ink Print Newspapers</i>	27,186	36,000	63,186	\$1.03	\$39,049
<i>Microfilm Newspapers</i>	2,123	1,971	4,094	\$127.64	\$522,558
<b>Computer-related works</b>	<b>6,050</b>	<b>2,292</b>	<b>8,342</b>		<b>\$2,691,093</b>
<i>Software</i>	2,118	33	2,151	\$30.23	\$65,025
<i>CD-ROMs</i>	1,210	2,259	3,469	\$757.01	\$2,626,068
<i>Printouts</i>	2,723	0	2,723	indeterminate value	
<b>Motion Pictures</b>	<b>12,020</b>	<b>1,386</b>	<b>13,406</b>		<b>\$7,730,334</b>
<i>Videotapes</i>	11,419	1,369	12,788	\$92.89	\$1,187,877
<i>Feature Films</i>	601	17	618	\$10,586.50	\$6,542,457
<b>Music</b>	<b>27,903</b>	<b>79</b>	<b>27,982</b>	\$64.81	<b>\$1,813,513</b>
<b>Dramatic Works, choreography and pantomimes</b>	<b>676</b>	<b>0</b>	<b>676</b>	\$80.81	<b>\$54,628</b>
<b>Sound Recordings</b>	<b>20,844</b>	<b>4,074</b>	<b>24,918</b>	\$16.36	<b>\$407,658</b>
<b>Maps</b>	<b>1,692</b>	<b>300</b>	<b>1,992</b>	\$39.35	<b>\$78,385</b>
<b>Prints, pictures, and works of art</b>	<b>3,945</b>	<b>50</b>	<b>3,995</b>	\$31.80	<b>\$127,041</b>
<b>Total</b>	<b>523,934</b>	<b>553,218</b>	<b>1,077,152</b>		<b>\$45,012,293</b>

1 60% of "BOOKS" are selected for the collections; 40% are used for the Library's exchange program.

2 60% of "SERIALS" are selected for the collections, except in the case of Microfilm Newspapers (100% of which are selected).

3 The figure for non-registered Periodicals includes: (1) an estimate based on average loads in hampers delivered to Library processing and custodial divisions and (2) a count of serials issues checked in through Copyright Acquisitions Division. For the estimated portion, there was an earlier change in physical method of delivery which decreased the average amount per hamper, but the former per hamper estimate was inadvertently retained. The amount reported in the FY 2006 report was possibly overestimated by up to 20 percent. The FY 2007 figure reflects a temporary methodology to reach a reasonable estimate. A new method of estimating will be developed for FY 2008.